

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 24, 2005

**D043566 Morrison v. Prunty**

The judgment is reversed and the case is remanded with directions to set a trial date. On remand, the trial court is ordered to set a trial date before the expiration of the five-year limitations period. Any new period of delay attributable to the calendaring of the case for trial should not be included in computing the five-year limitations period under section 583.310. Aaron, J.; We Concur: Nares, Acting P.J., Haller, J.

**D044457 People v. David**

The judgment is affirmed. Haller, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D042346 In re Marriage of Shachar**

**D043648 In re Marriage of Shachar**

(Consolidated). The order of April 17, 2003, is reversed with directions to the superior court to recalculate guideline child support using a proper determination of the timeshare factor of Family Code section 4055.

The order of November 25, 2003, is reversed.

Appellant is awarded costs on appeal. Irion, J.; We Concur: Benke, Acting P.J., Nares, J.

**D044463 NAS Engineering & Construction, Inc. v. American Residential Maintenance Company**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**D045412 Christopher S. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

**D045168 In re Jorge M., a Juvenile**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D045386 Sonali A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 25, 2005

**D042631        MHC Financing Limited Partnership Two v. City of Santee**

**D043129        MHC Financing Limited Partnership Two v. City of Santee**

The pending appeal, MHC Financing Limited Partnership Two v. City of Santee, D042631, is consolidated with the pending appeal, MHC Financing Limited Partnership Two v. City of Santee, D043129, for disposition.

**D042631        MHC Financing Limited Partnership Two v. City of Santee**

**D043129        MHC Financing Limited Partnership Two v. City of Santee**

(Consolidated) The portions of the judgment declaring Ordinance 412 void, enjoining the City from enforcing Ordinance 412, and awarding MHC the remedy of future rent increases and damages of \$4,316.00 are reversed. The judgment is otherwise affirmed. The order denying MHC's motion for attorney fees is affirmed. The matter is remanded for further proceedings to determine whether MHC suffered any legally remediable injury as a result of any differences between Ordinance 412 and Ordinance 381 and the retroactive application of Ordinance 412 to the effective date of Ordinance 381 and, if so, the proper remedy for that injury. CERTIFIED FOR PUBLICATION. Aaron, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D045357        Angelica C. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Aaron, J.; We Concur: McConnell, P.J., O'Rourke, J.

**D045649        Brierton v. Superior Court of San Diego County/People**

The petition is denied.

**D045512        Handler et al. v. Superior Court of San Diego County/New Visual Corp et al.**

The petition is denied.

**D043401        Reichner et al. v. Maywood**

The judgment and posttrial orders are affirmed. Huffman, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D045727        People v. Rock**

In that no appealable order or judgment has yet been entered, the notice of appeal is premature. The appeal is dismissed without prejudice to refile a notice of appeal after an order or judgment has been entered.

**D045628        In re the Marriage of Ferrey**

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

**D045650        Winston v. Superior Court of San Diego County/People**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 26, 2005

**D041523        People v. Penny**

**D043574        In re Penny on Habeas Corpus**

The pending petition for writ of habeas corpus , In re Michelle Louise Penny, D044574, is consolidated with the pending appeal, People v. Michelle Louise Penny, D041523, for oral argument and disposition.

**D041523        People v. Penny**

**D043574        In re Penny on Habeas Corpus**

(Consolidated). The May 17, 2004 order staying this appeal is vacated. The petition for writ of habeas corpus is denied. The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D043733        People v. Morris**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Irion, J.

**D043139        People v. McCann**

The judgment is affirmed. O'Rourke, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D042750        People v. Thompson**

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D043829        The H.N. & Frances C. Berger Foundation v. City of Escondido et al.**

We reverse the judgment insofar as the denial of the petition for writ of mandate is concerned, and instruct the superior court to issue a writ directing the Board to vacate its decision and conduct a new hearing consistent with this opinion. In all other respects the judgment is affirmed. The parties are to bear their own costs on appeal. McConnell P.J.; We Concur: Benke, J., Irion, J.

**D044445        Hoveida v. Scripps Health**

The appeal is dismissed, and the matter is remanded to the trial court with directions to vacate the judgment and stipulation on which it is based. The parties are to bear their own costs on appeal. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: Benke, J., Irion, J.

**D044371        In re Marriage of Kathleen K. and Larry K.**

The order is affirmed.

**D043836        Mar, LLC v. Albertson's, Inc.**

Petition for rehearing is denied.

**D045358        Rose M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: Benke, Acting P.J., Irion, J.

**D045527        In re Delander, Jr. on Habeas Corpus**

The petition is denied.

**D045736        People v. Superior Court of San Diego County/Julianne Cummings**

At the request of petitioner, the petition for writ of mandate is dismissed without prejudice.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 26, 2005 (Continued)

**D045597 Julie R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Julie R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D045584 Jody M. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jody M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D045198 In re Dryden on Habeas Corpus.**

The petition is denied.

**D045317 Sempra Energy v. Superior Court of San Diego County/Continental Forge Company et al.**

The petition is denied.

**D045781 Barber v. Superior Court of San Diego County/Barber**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 27, 2005

**D045598        Maria M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorneys for petitioners Maria M. and Abraham R. have notified the court on behalf of the petitioners that a Petition for Writ of Mandate under Rule 38.1 will not be filed. The case is dismissed.

**D044483        In re Branndi W., a Juvenile**

The order is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D045528        City of San Diego v. Workers' Compensation Appeals Board/Holladay et al.**

The petition is denied.

**D043471        People v. Alvarado**

The petition for rehearing is denied.

**D045374        Chapman et al. v. Superior Court of San Diego County/Malcolm**

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted. Absent objection on or before February 5, 2005, the briefs on file will be deemed the response and reply to the order to show cause. Oral argument will be deemed waived unless requested on or before February 10, 2005.

The stay issued December 20, 2005, remains in effect pending disposition of this matter.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
JANUARY 28, 2005

**D044875        In re Tyler K., a Juvenile**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.

**D043826        In re Christopher C., a Juvenile**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

**D044643        People v. Romero**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.

**D042481        Caira v. Offner**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Aaron, J.; I Concur: Benke, Acting P.J., Nares, J.

**D044522        People v. Rivera**

The judgment is affirmed. Aaron, J.; We Concur: O'Rourke, Acting P.J., Irion, J.

**D044171        People v. Russell**

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.

**D044642        People v. Johnson**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D044711        People v. Mendoza**

The judgment is modified to reflect presentence credits in case No. SCE235537 of 195 days rather than 194 days and a conviction of Penal Code section 245, subdivision (d)(3), rather than Penal Code section 243 subdivision (d)(3). As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections. Aaron, J.; We Concur: McIntyre, Acting P.J., Irion, J.

**D044713        People v. Johnson**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

**D045771        In re the Marriage of Akinrotaye and Akeni**

Daniel Akeni's appeal is dismissed as untimely.

**D043528        Shrestha v. NRT Inc., et al.**

The petition for rehearing is denied. The opinion filed on January 7, 2005 is modified. There is no change in judgment.

**D042877        People v. Shaw**

The opinion filed in this case on January 7, 2005 is modified. There is no change in judgment. The request for rehearing is denied.

**D045475        In re Willard R. Parker on Habeas Corpus**

The petition is denied.